IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 14743 of 2003

Between:

A. Rajaram Reddy, S/o. A. Hanumanth Reddy,
(under Suspension) Karimnagar Coop Urban Bank Ltd,
R/o. 9-9-178/1/A, Ramnagar, Karimnagar.

..... PETITIONER

AND

1 The Deputy Registrar of Coop Societies Karimnagar Division.
2 The Divisional Coop Officer, Jagithyal / Enquiry Officer,
Karimnagar Coop Urban Bank Ltd.
3 The Joint Registrar / District Coop Officer, Karimnagar.
4 The President, The Karimnagar Coop Urban Bank Ltd., Karimnagar.
5 The Registrar of Coop Societies, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate Writ or Writs order or direction declaring the impugned order dt. 14-7-2003 passed by the 1st respondent under Proceedings No. RC.No. 1377/2001-C, is illegal, arbitrary and without jurisdiction and be pleased to pass such other orders as this Hon'ble Court deem fit and proper and circumstances of the case.

Counsel for the Petitioner: MR.B.VIJAYSEN REDDY

Counsel for the Respondents: G.P. for Co-operative Banks.

The Court made the following :

ORAL ORDER:

The petitioner while working as a Chief Executive Officer of the Karimnagar Co-Operative Urban Bank Limited, Karimnagar (for short 'the Bank') was directed to be placed under suspension by the first respondent's proceedings dated 14-07-2003. The first respondent issued the said directions to the fourth respondent in purported exercise of powers under section 59 of the A.P Co-operative Societies Act, 1964 (for short 'the Act). Even before the fourth respondent issued any orders placing the petitioner under suspension pursuant to the impugned order of the first respondent, the petitioner has filed this writ petition assailing the first respondent proceedings dated 14-07-2003 and obtained an order of interim suspension dated 01-08-2003, which was extended until further orders on 20-08-2003.

An inquiry into the affairs of the Bank where the petitioner was employed as the Chief Executive Officer was held under section 51 of the Act and a report dated 10-06-2002 was submitted by the Divisional Co-operative Officer, Jagitial who conducted inquiry under section 51 of the Act. The report has alleged *inter alia* collusive conduct on the part of the petitioner enabling grant of loans without adequate security and documentation. It has also been alleged that gross supervisory failure is perceived in the conduct of the petitioner in respect of the sanction of loans. Other grave instances of gross dereliction of duty and scrutiny by aberrations the petitioner have also been chronicled in the report which records a *prima facie* conclusion as to the collusive conduct of the petitioner in permitting illegal withdrawals of loans.

The first respondent on receipt of the report under section 51 of the Act , has in exercise of powers under section 59 of the Act, directed the fourth respondent to place the petitioner under suspension and initiate disciplinary action against the

petitioner and report compliance.

Section 59 of the Act reads as under:

> "**59.*Suspension of officer or servant of society***:- *(1) Where in the course of an audit under Section 50 or an inquiry under Section 51 or an inspection under Section 52 or Section 53, it is brought to the notice of the Registrar that a paid officer or servant of a society has committed or has been otherwise responsible for misappropriation, breach of trust or other offence, in relation to the society, the Registrar may, if in his opinion there is prima facie evidence against such paid officer or servant and the suspension of such paid officer or servant is necessary in the interests of the society, direct the committee pending the investigation and disposal of the matter, to place or cause to be placed such paid officer or servant under suspension from such date and for such period as may be specified by him, but not retrospectively.*
>
> *(2) On receipt of such direction, the committee shall, notwithstanding any provision to the contrary in the bye-laws, place or cause to be placed the paid officer or servant under suspension forthwith.*
>
> *(3) The Registrar may direct the committee to extend, from time to time, the period of suspension and the paid officer or servant suspended shall not be reinstated except with the previous sanction of the Registrar."*

The power of the Registrar to issue directions under this provision, is a power that is independent of the power of the management to place the employee of a society under suspension in accordance with the bye-laws. The legislative intent underlying section 59 of the Act is to safeguard the interests of a society against any possible slack supervision by the management of society in exercising the powers of suspension pending inquiry in appropriate cases.

Sri.B.Vijaysen Reddy, learned counsel for the petitioner does not contest the jurisdiction of the first respondent to exercise the powers under section 59 of the Act. The competence of the first respondent is not disputed. What is contended is that the impugned order *per se* does not record that the petitioner, as the Chief Executive Officer of the Bank, has committed or has otherwise been responsible for misappropriation, breach of trust or other offences in relation to the said bank, and therefore, the exercise of power under section 59 of the Act is unwarranted. It is also urged that what all has been pointed in the report under section 51 of the Act is that the petitioner had not scrupulously followed the bye-laws and the guidelines issued

by the Reserve Bank of India. And as there is nothing in the report under section 51 of the Act to infer either misappropriation, breach of trust or other offences having been committed by the petitioner, the exercise of powers under section 59 of the Act is unwarranted is the contention.

The contentions urged on behalf of the petitioner do not commend acceptance by this Court. Having regard to the stage at which this writ petition has been filed, this Court does not consider it appropriate to dilate at length on the findings recorded in the report under section 51 of the Act as it might likely prejudice the petitioner in any eventual disciplinary proceedings conducted against him. Suffice it to record that the inquiry report under section 51 of the Act does substantively record that the petitioner has colluded in the grant of loans without adequate security and without following the minimum standards of care and prudence required of an officer of the bank. This conduct of the petitioner is recorded to have resulted in a situation where recovery of the amounts has become difficult if not impossible. The *prima facie* conclusions recorded in the inquiry report under section 51 of the Act do fall within the spectrum of conduct in respect of which the power under section 59 of the Act is invokable.

For the above reasons, it cannot be gainfully contended that the impugned order constitutes an exercise of power for reasons extraneous to the grant of power under section 59 of the Act. As the impugned order is not beyond the scope of the powers available under Section 59 of the Act, this Court finds no justification for interference with the impugned order. A contention *in extremis* urged on behalf of the petitioner is that continued suspension without a disciplinary proceedings initiated would be detrimental to the interests of the petitioner. This grievance is not without substance. In the circumstances the first respondent is directed to issue appropriate directions to the fourth respondent or to the Bank to ensure expeditious initiation of disciplinary proceedings, and expeditious conclusion of such disciplinary proceedings, if such proceedings are warranted on an examination of the report under section 51 of the Act considered together with any explanation submitted by the petitioner in respect of the observations contained in the said report. The first respondent shall, if satisfied, the disciplinary proceedings should be initiated against the petitioner, issue appropriate directions to the fourth respondent fixing a time frame for the initiation and completion of such disciplinary proceedings.

On the analysis above the writ petition is dismissed in so far as the relief sought by

the petitioner namely invalidation of the first respondent proceedings dated 14-07-2003 and is disposed of with the directions to the first respondent as recorded supra. No costs.

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13-07-2004

pvks/vs

To

1 The Deputy Registrar of Coop Societies Karimnagar Division.
2 The Divisional Coop Officer, Jagithyal / Enquiry Officer, Karimnagar Coop Urban Bank Ltd.
3 The Joint Registrar / District Coop Officer, Karimnagar.
4 The President, The Karimnagar Coop Urban Bank Ltd., Karimnagar.
5 The Registrar of Coop Societies, Hyderabad.

6. Two CCs to the G.P for co-operative Banks, High Court Buildings, Hyderabad (O.U..T)

7. Two CD copies.

8. One spare copy.